IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.921 of 2007

Date of decision: 23.8.2007.

Rajender Singh ....Petitioner

-Versus-

State of H.P. and others ….Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice V.K.Ahuja, Judge.

Whether approved for reporting? No

For the Petitioner: Mr.Narender Sharma, Advocate.

For Respondents: Mr.M.S.Chandel, Advocate General with Mr.R.M.Bisht,Dy.A.G. for respondent Nos. 1 to 4.
Mr.M.A. Khan, counsel for R-5&6.

Deepak Gupta, J.(Oral)

The petitioner by means of this writ petition has challenged the selection of respondent No.6 as Lecturer in Political Science on PTA basis in Government Senior Secondary School, Solang, Tehsil Jubbal, District Shimla, H.P.

The allegation of the petitioner is that respondent No.5 Jagat Singh who is the Pradhan of PTA is the real brother of the selected candidate respondent No.6. It is further alleged that the respondent No.5 took active part in the selection process in which respondent No.6 was selected and as such the selection of respondent No.6 is violative of the principles of natural justice and is illegal on account of the bias of respondent No.5 since an unbiased selection could not

be expected from respondent No.5 who is the real brother of respondent No.6.

The respondents 5&6 have filed a joint reply. In para 8 of the reply it is clearly admitted that respondents 5&6 are real brothers. It is also admitted that respondent No.5 was member of the Selection Committee. It is however urged that respondent No.6 was selected on the basis of better merit and not on the basis of his being related to respondent No.5.

In view of the admitted facts that respondents 5&6 are real brothers the selection of respondent No.6 is totally illegal and violative of the principles of natural justice. It is well established law and has been repeatedly held by the Apex Court that a selection in which one of the members of the Selection Committee is related to one of the selected candidates is hit on the principle that it attracts bias and therefore is violative of the principles of natural justice.

In view of the above discussion, the selection of respondent No.6 as Lecturer Political Science in Government Senior Secondary School, Solang, Tehsil Jubbal, District Shimla, H.P. is liable to be set-aside. Accordingly the selection of respondent No.6 is quashed. The respondent No.5 is directed to initiate fresh process of selection immediately. In case the respondent No.6 or any other relative of respondent No.5 applies for the post, he (respondent No.5) shall immediately withdraw from the entire selection process and the selection shall be made by an Interview Committee consisting of the

Principal of the School, the Subject Expert and the Secretary of the PTA.

The writ petition is allowed in the aforesaid terms with costs assessed at Rs.5000/- to be borne by respondent No.5.

(Deepak Gupta),
Judge

August 23, 2007.
PV

(V.K. Ahuja),
Judge